



**MINUTES OF MEETING OF THE CITY
COUNCIL OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 74541
Tuesday, November 14, 2000, 8:00 p.m.**

MEETING

The Regular Meeting of the City Council was called to order by Mayor Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council Member Hilson.

ROLL CALL

Present: COUNCIL MEMBERS Hilson, Rodriquez
Ward, Dowling, Henson
MAYOR Cooper
Absent: Council Member Jimenez

Mayor Cooper noted that Council Member Jimenez was out of town.

PRESENTATION: Business Recognition Award

The Business Recognition Award for the month of November was presented to Felson Companies. The founder, Eastern European-born Don Felson, immigrated to the United States in 1947 as a World War II refugee, who lost most of his family during the Holocaust. Mr. Felson came to Hayward and through his great uncle was introduced to the home-building business. Thus, Felson Builders, Inc. began as a home-building enterprise. Today the company is operated by Don Felson's three sons: Joe, Rick and Elliott; although Don continues to serve as Chairman of the Board, Emeritus. Now known as Felson Companies, it employs nearly 100 people and owns and manages approximately 2,100 apartment units, a senior assisted living facility, and a 52,000 square foot office building on B Street where Felson Companies maintains its offices. Felson Companies is a civic-minded organization, supporting or contributing mainly to local organizations that assist people in seeking and securing housing.

Mr. Don Felson and his three sons: Joe, Rick and Elliott thanked the Council as they accepted the Award and made a brief historical comment related to his family business.

PUBLIC COMMENTS

Cheryl Vyeheuis, 1977 Laguna Drive, purchased a home in a Hayward subdivision and has had problems with other neighbors parking in front of her home. She suggested that an ordinance be adopted to restrict that type of parking.

Charlie Cameron, P.O. Box 55, reported that AC Transit plans to re-route the bus stops at Fairway Park and may eliminate most of them. He urged Council to support his concerns and attend a meeting in this regard. He referenced information from the Fairway Neighborhood Plan.

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John Radenich, 638 Tamarack Drive, Union City, stated that he operates a business on Commerce Place. He has noticed that his street, as well as surrounding streets are turning into a junk yard because of the debris left by passing motorists and independent truckers that park along Industrial Boulevard, He also noted that auto parts are discarded on the streets as repairs are made on those trucks.

William Weller, 28564 Cole Place, asked that the application for a 24 child care home at 694 Corrine Street be denied.

Jason Moreno, 25200 Carlos Bee Boulevard, commented on his experience at USO clubs and thanked those who assisted, sent letters and shared hospitality to Americans serving in the armed forces.

CONSENT

Consent Items 2 and 3 were removed for further discussion.

1. Approval of Minutes of the City Council Meeting of October 24, 2000

It was moved by Council Member Hilson, seconded by Council Member Ward, and carried with Council Member Jimenez absent, to approve the Minutes of the City Council Meeting of October 24, 2000.

2. Weekes Branch Library Expansion: Approval of Plans and Specifications and Call for Bids

Staff report submitted by Deputy Director of Public Works
Bauman, dated November 14, 2000, was filed.

City Manager Armas clarified that the report should have said the Project Legacy funding is not available for construction purposes.

It was moved by Council Member Ward, seconded by Council Member Hilson, and carried with Council Member Jimenez absent, to adopt the following:

Resolution 00-174, "Resolution Approving Plans and Specifications
for Weekes Branch Library Expansion Project. Project No. 6918,
and Call for Bids"

3. Orchard Avenue Roundabout Improvements at Orchard Avenue and Joyce Street: Award of Contract

Staff report submitted by Deputy Director of Public Works
Bauman, dated November 14, 2000, was filed.

Council Member Rodriguez cited her driving experiences at this roundabout and expressed



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concern that the area was rather tight. She asked if there are plans to “build-up” so that motorists drive around rather than driving on it. Public Works Director Butler reported that raised pavement markers will be installed at that location as well as other intersections in that area which will be raised as traffic calming devices.

Council Member Ward reported that there is a fence damaged by an automobile that has not been repaired. Public Works Director Butler responded that remedial work would be done to protect that property as well as consideration of other suggestions prior to the final design and configuration.

It was moved by Council Member Ward, seconded by Council Member Hilson, and carried by the following roll call vote to adopt the following:

AYES: Council Members Hilson, Ward, Dowling, Henson
MAYOR Cooper
NOES: Council Member Rodriquez
ABSENT: Council Member Jimenez
ABSTAINED: None

Resolution 00-175, “Resolution Awarding Contract to Redgwick Construction Co, for Orchard Avenue Roundabout Improvements at Orchard Avenue and Joyce Street, Project No. 6992”

Resolution 00-176, “Resolution Amending Resolution No. 00-089, the Budget Resolution for Capital Projects for Fiscal Year 2000-2001, Relating to an Appropriation of Funds for the Orchard Avenue Roundabout Improvement at Orchard Avenue and Joyce Street, Project No. 6992”

4. Wastewater Collection System Master Plan: Authorization for Execution of a Professional Design Services Agreement

Staff report submitted by Deputy Director of Public Works Ameri, dated November 14, 2000, was filed.

It was moved by Council Member Hilson, seconded by Council Member Ward, and carried with Council Member Jimenez absent, to adopt the following:

Resolution 00-169, “Resolution Authorizing the City Manager to Execute an Agreement Between the City of Hayward and CH2M Hill for Professional Design Services to Prepare a Wastewater Collection System Master Plan Update”

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5. Depot Road Improvement at the UPRR Crossing: Approval of Addendum No. 1 and Award of Contract

Staff report submitted by Deputy Director of Public Works Bauman, dated November 14, 2000, was filed.

It was moved by Council Member Hilson, seconded by Council Member Ward, and carried with Council Member Jimenez absent, to adopt the following:

Resolution 00-170 "Resolution Approving Addendum No. 1 and Awarding Contract to Redgwick Construction of Hayward for the Depot Road Improvement at the UPRR Crossing, Project No. 5134"

6. Construction of Wheelchair Ramps at Various Locations: Approval of Plans and Specifications and Call for Bids

Staff report submitted by Deputy Director of Public Works Bauman, dated November 14, 2000, was filed.

It was moved by Council Member Hilson, seconded by Council Member Ward, and carried with Council Member Jimenez absent, to adopt the following:

Resolution 00-171, "Resolution Approving Plans and Specifications for Construction of Wheelchair Ramps at Various Locations, Project Nos. 5114 and 5120, and Call for Bids"

7. Annual Investment Report, Revisions to Statement of Investment Policy and Delegation of Investment Authority

Staff report submitted by Purchasing Manager Costa, dated November 14, 2000, was filed.

It was moved by Council Member Hilson, seconded by Council Member Ward, and carried with Council Member Jimenez absent, to adopt the following:

Resolution 00-172, "Resolution Accepting the Annual Report on Investment Program and Activity for the City of Hayward, Affirming the Statement of Investment Policy and Renewing the Delegation of Authority to Make Investments to the Director of Finance "

8. Approval of Lease Financing to Purchase Equipment Authorized in 2000-01 Budget



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Staff report submitted by Purchasing Manager Costa, dated November 14, 2000, was filed.

It **was moved** by Council Member Hilson, seconded by Council Member Ward, and carried with Council Member Jimenez absent, to adopt the following:

Resolution 00- 173, "Resolution Authorizing Execution of Equipment Lease/Purchase Agreement and Other Documents Necessary to Procure Equipment Lease Financing From Banc One Leasing Corporation"

HEARINGS

9. Use Permit 00-160-21 - Jack-in-the-Box, Mahesh Gagri (Franchise Operator/Applicant), Toro Development Co. (Owner) - Request to Amend Use Permit 84-164 to Expand Hours of Drive-Thru to 24 Hours/Daily - The Property is Located at 31005 Mission Boulevard, Southwest Corner of Mission Boulevard and Rousseau Street Within a CN (Neighborhood Commercial) District

Staff report submitted by Senior Planner McClellan, for November 14, 2000, was filed.

Senior Planner McClellan made the staff report, and responded to Council questions.

Council Member Henson asked whether the present ordinance allows for a fast food standard rather than a stand-alone in a different area rather than in a neighborhood and whether the grocery store in the shopping center was 24-hours.

He was told they were the same and the grocery store has limited hours as well.

Council Member Henson then asked whether the applicant requested the allowance for increased hours.

He was told that the owner asked for 24-hours. He may not have been aware of the different hours available.

Council Member Ward asked about other facilities in similar parts of the City.

Planning Manager Anderly explained that, to the best of her recollection, there are no other facilities in the City that are open 24-hours.

Senior Planner McClellan added that the neighbors expressed concern that if this facility was

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granted a 24-hour operation, other applicants in the area might apply for similar consideration.

Council Member Hilson asked what mechanism the City has to make new owners aware of conditions of operation.

Planning Manager Anderly explained that it is very difficult to insure that new owners as well as new managers be made aware of the conditions.

Council Member Hilson expressed concerns that business owners and operators be made aware of the conditions of approval.

Mayor Cooper opened the public hearing at 8:57 p.m.

Ron Peck, 28580 Barn Rock Drive, spoke on behalf of the applicant and Toro Development Company. He commented on the petition regarding noise from "boom boxes," which is actually coming from a nearby car wash. He asked for a trial time of six months be allowed for the applicant with an added provision of truck deliveries.

Yvonne Critzer, 26937 Halifax Place, representing Toro Development, noted that Albertson's Stores is not open 24 hours. She noted that lifestyles have changed since 1984 and Jack in the Box is a business that provides food service for those who use and travel Mission Boulevard during the night.

Council Member Rodriguez asked whether signs have been placed as previously discussed. Ms. Critzer responded about signage installation, a flashing light and posted signs. Mr. Peck reported that signs have been ordered,

Council Member Dowling asked Mr. Peck if there has been consideration to close the drive-thru and keep the indoor part of the restaurant open 24 hours.

Mr. Peck indicated there could be a number of creative solutions if they were allowed a trial period.

Council Member Ward commented as to whether closing early would impact the economic viability of this business.

Mr. Gagri, applicant, reported that over 25 percent of his business is during the off hours.

Pat Preston, 579 Folsom Avenue, shops at Fairway Park, and has noticed that those using the drive through get their food and end up in the parking lot, which adds to the noise level. She reported that the car wash has changed its hours to close at 9 p.m.

William Weller, 28564 Cole Place, noted solutions that were made to several neighborhood noise issues in the past and suggested that similar solutions could result. He urged that the previous conditions of approval related to restricted hours be reinstated.



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Jason Moreno, 25200 Carlos Bee Boulevard, suggested that a test during the winter months might not be an accurate reflection of the business in the summer.

D. J. Evans, 361 B Street, San Leandro, commented against the 24-hour operation.

Mayor Cooper closed the public hearing at 9:26 p.m.

Council Member Ward pointed out that it was unfortunate that either the current owner was not aware of the original conditions of approval or elected to operate contrary to those conditions or simply continued with the existing hours when he purchased the business. He emphasized that this Council consider the desires of the neighborhood. He agreed with Ms. Critzer's comments related to changing needs that require extended hours. He proposed a middle ground as a possible solution that would modify the hours of operation. Council Member Ward moved, seconded by Council Member Henson, to extend the original conditioned hours so that the business hours be from 6:30 a.m. to 11:00 p.m. on weekdays and 6:30 a.m. to 1:00 a.m. on weekends.

City Attorney O'Toole asked that the motion include the reference to CEQA. Council Member Ward agreed.

Council Member Henson said he thought it was a good middle ground motion. If this applicant were granted 24-hours for operation, the other fast-food restaurants would expect the same privilege.

Council Member Rodriguez commented that the residents are aware of the fact that the area has changed dramatically. She agreed that the motion was most likely the best solution to the problem and would support the motion, although she has concerns.

City Manager Armas clarified that the alternate hours in the staff report were merely cited for Council understanding and not the staff recommendation.

Council Member Hilson added comments regarding the rights of the residents versus the rights of the business owner. Generally, complaints indicate a negative affect on someone. He said he would support the motion.

Mayor Cooper said she, too, would support the motion. She commented on the mean-spirited nature of the petition presented to Council. She was dismayed that the petitioner did not come to speak before Council at this hearing.

Council Member Ward slightly modified the motion to start at 6 a.m. rather than 6:30 a.m. There was consensus to this modification.

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It was moved by Council Member Ward, seconded by Council Member Henson, and carried with Council Member Jimenez absent, to categorically exempt this project from CEQA and amend Conclition #10 of the Conditions of Approval of Use Permit No. 84-164 so that the business hours be from 6 a.m. to 11:00 p.m. on weekdays and 6 a.m. to 1 :00 a.m. on weekends.

Mr. Peck clarified that neighbors are invited to comment to Mrs. Critzer

Council Member Ward clarified that a Council Member could bring this issue back within a year.

COUNCIL REPORTS

Council Member Dowling reported that he and Council Member Rodriquez are both on an AC Transit Committee that will hear the issues and concerns expressed during public comments, on their December agenda.

ADJOURNMENT

Mayor Cooper adjourned at 9:46 p.m.

APPROVED:

Roberta Cooper, Mayor, City of Hayward

ATTEST:

Angelina Reyes, City Clerk, City of Hayward

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